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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA, SOUTHERN DIVISION**

10 ***

11 LUIS CALDERON, an individual,

12 Plaintiff,

13 vs.

14 USAA CASUALTY INSURANCE
COMPANY, a Foreign Corporation; DOES 1-
15 10 AND ROE ENTITIES 11-20,
INCLUSIVE,

16 Defendants.
17

CASE NO.: 2:20-cv-1049-JCM-BNW

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

[THIRD REQUEST]

18 Pursuant to LR 6-1 and LR 26-4, the parties, by and through their respective counsel of
19 record, hereby stipulate and request that this Court extend discovery in the above-captioned case by
20 ninety (90) days, up to and including Thursday, October 14, 2021. In addition, the parties request
21 that all other future deadlines contemplated by the Discovery Plan and Scheduling Order be
22 extended pursuant to Local Rule. In support of this Stipulation and Request, the parties state as
23 follows:

- 24 1. On March 19, 2020, Plaintiff filed his Complaint in the District Court, Clark
25 County.
- 26 2. On April 24, 2020 Plaintiff filed his First Amended Complaint in District Court,
27 Clark County.
- 28 3. On June 12, 2020, Defendant removed the case to the United States District Court.

4. On June 19, 2020, Defendant filed its Answer to Complaint.
5. On August 17, 2020 the parties conducted an initial FRCP 26(f) conference
6. On August 31, 2020, the Court entered the Stipulated Discovery Order.
7. On September 9, 2020, Plaintiff served his FRCP 26 Initial Disclosures on Defendant.
8. On September 17, 2020, Defendant served its FRCP 26 Initial Disclosures on Plaintiff.
9. On November 24, 2020, the parties stipulated to their first extension to deadlines. This Court granted the stipulation on December 1, 2020.
10. On November 30, 2020, Defendant served written discovery on Plaintiff. Plaintiff served his responses on December 7, 2020.
11. On December 7, 2020, Plaintiff served his First Supplement to Initial Disclosures on Defendant.
12. On January 21, 2021, Plaintiff served written discovery on Defendant. Defendant served its responses on March 9, 2021.
13. On January 21, 2021, Plaintiff served his Second Supplement to Initial Disclosures on Defendant.
14. On February 22, 2021, Defendant served its First Supplement to Initial Disclosures on Plaintiff.
15. On February 23, 2021, the parties stipulated to their second extension to deadlines. This Court granted the stipulation on February 25, 2021.

DISCOVERY REMAINING

1. The parties will continue participating in written discovery.
2. Defendant will take the deposition of Plaintiff.
3. Defendant will gather records/documents pertinent to Plaintiff's claim.
4. The parties may take the depositions of any and all other witnesses garnered through discovery.
5. The parties will retain and disclose initial and rebuttal experts.

1 6. The parties will depose the respective expert witnesses.

2 7. The BMW involved in the loss which occurred in Mexico, was repatriated from
3 Mexico and is now available for inspection in a storage/impound yard in San
4 Diego, CA. Accordingly, the parties are working to schedule a joint inspection of
5 the vehicle in California and potential removal of the vehicle's black box and/or
6 other electronic data which can be provided to the parties' consultant/experts for
7 forensic analysis.

8 **WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

9 The parties aver, pursuant to Local Rule 26-4, that good cause exists for the following
10 requested extension. This Request for an extension of time is not sought for any improper purpose
11 or other purpose of delay. Rather, it is sought by the parties solely for the purpose of allowing
12 sufficient time to conduct discovery.

13 First, the subject vehicle was repatriated to the United States and is now available for
14 inspection at a storage/impound yard in San Diego. The parties have been communicating in an
15 effort to schedule a joint inspection. The parties need additional time in which to arrange an
16 inspection of the vehicle involving the attendance of multiple persons, and arrange travel to the out
17 of state storage facility, consistent with applicable COVID-19 restrictions. The inspection is
18 intended to include potential removal of the vehicle's black box and/or other available electronic
19 data which can be provided to the parties' consultant/experts for forensic analysis. The parties are
20 working to identify a date in May 2021 if possible that multiple persons can travel to San Diego to
21 complete this inspection. For this reason, expert designations are impacted. As counsel understands
22 the process of trying to remove the black box and any other available electronic data from the
23 vehicle, once this data is extracted, it will need to be made available separately to each party's expert
24 for forensic analysis, before expert designations can be made. Thus, additional time is necessary to
25 ensure the parties can complete this forensic analysis of data from the subject vehicle and make
26 determinations regarding expert designations. This process may also impact additional related
27 discovery not previously contemplated by the parties.

28 Second, the ongoing impact on discovery by the current COVID-19 crisis, while appearing

to improve, continues to constrain the parties' ability to complete discovery. Local, state, and national officials continue to warn that travel may be limited or restricted at this time to prevent further spread of the virus. Defendants and their counsel are practicing physical distancing and are working remotely. Due to these unexpected and rapidly changing circumstances, an extension of the close of discovery deadline is necessary so the parties may fully develop their respective cases in chief.

Extension or Modification of The Discovery Plan and Scheduling Order. LR 26-4 governs modifications or extension of the Discovery Plan and Scheduling Order. Any stipulation or motion to extend or modify that Discovery Plan and Scheduling Order must be made no later than twenty-one (21) days before the expiration of the subject deadline and must comply fully with LR 26-4.

This is the third request for extension of time in this matter. The parties respectfully submit that the reasons set forth above constitute compelling reasons for the short extension.

The following is a list of the current discovery deadlines and the parties' proposed extended deadlines:

Scheduled Event	Current Deadline	Proposed Deadline
Discovery Cut-off	<i>Friday, July 16, 2021</i>	<i>Thursday, October 14, 2021</i>
Deadline to Amend Pleadings or Add Parties	<i>Closed</i>	<i>Closed</i>
Expert Disclosure pursuant to FRCP26 (a)(2)	<i>Monday, May 17, 2021</i>	<i>Monday, August 16, 2021</i>
Rebuttal Expert Disclosure pursuant to FRCP. 26(a)(2)	<i>Monday, June 16, 2021</i>	<i>Wednesday, September 15, 2021</i>
Dispositive Motions	<i>Monday, August 16, 2021</i>	<i>Friday, November 12, 2021</i>
Joint Pretrial Order	<i>Wednesday, September 15, 2021</i>	<i>Monday, December 13, 2021</i>

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1 WHEREFORE, the parties respectfully request that this Court extend the discovery period
2 by ninety (90) days from the current deadline of July 16, 2021, up to and including October 14,
3 2021, and the other dates as outlined in accordance with the table above.

4 Dated this 22nd day of April, 2021.

Dated this 22nd day of April, 2021.

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

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10 *USAA Casualty Insurance Company*

Attorney for Plaintiff

11 **ORDER**

12 IT IS SO ORDERED.

13 Dated April 26, 2021.

14 

15 UNITED STATES MAGISTRATE JUDGE